


PATENT APPLICATION

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10-29-08
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/814,219
Applicant : Katalin Coburn
Filed : April 1, 2004
Title : PROCESS FOR MAKING NON-EMULSIFIED, SPICED OR FLAVORED PEANUT BUTTER SPREAD, WITH LOWER FAT CONTENT, LONG SHELF LIFE, AND MINIMAL OIL SEPARATION
TC/A.U. : 1764
Examiner : Helen F. Pratt
Confirmation No: 5389
Docket No. : 32416-1001

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Commissioner for Patents
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BRIEF FOR APPELLANTS
UNDER 37 C.F.R. § 1.192

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(1) Real Party in Interest

The real party in interest is Sunland, Inc., the assignee.

(2) Related Appeals and Interferences

There are no other appeals or interferences known to Appellant or Appellant's legal representative or assignee which will directly affect or be directly affected by, or have a bearing on, the Board's decision in the pending appeal.

(3) Status of Claims

Claims 1, 5-8, 11-16, 18, 21, 22, 25, 29-33, 35-43 and 45-52 are pending in this case, stand finally rejected, and are the subject matter of this appeal.

(4) Status of Amendments

Claims 1, 14, 33, and 42 were amended in response to Examiner's non-final office action of December 14, 2007. The Examiner issued a final office action on June 11, 2008, and a notice of appeal was filed in response.

(5) Summary of Claimed Subject Matter

The independent claims under appeal are claims 1, 14, 33, and 42. Claim 1 is directed to "a manufacturing process for producing nut butter". Claims 5-8 and 11-13, 21, 29, 31 depend from claim 1. Claim 14 is directed to "a nut butter". Claims 15, 18, 22, 25, 30, and 32 depend from claim 14. Claim 33 is directed to "a manufacturing process for producing a nut butter spread". Claims 35-41, 47, 49 and 51 depend from claim 33. Claim 42 is directed to "a nut butter spread". Claims 43, 45-46, 48, 50, and 52 depend from claim 42. There are no means-plus-function or step-plus-function claims.

The nut butter, nut butter spread and manufacturing process of the nut butter and nut butter spread of the independent claims is described in the specification. Embodiments of the present invention provide a nut butter and nut butter spread and a manufacturing process for manufacturing the natural nut butter, spiced and/or flavored nut butters and nut butter spreads. The nut butters and nut butter spreads exhibit very low oil separation, long shelf life, good spreadability and texture, and have a lower fat content without the use of hydrogenated oils, stabilizers, emulsifiers, bulking agents and without utilizing an emulsification process.

Embodiments of the present invention comprise nuts that are roasted and ground to a coarse consistency paste. The nuts preferably have a nut particle size ranging from about 1.5 to about 3.5 mm after grinding to produce a nut butter or nut butter spread. The process according to an embodiment of the present invention eliminates the addition of stabilizers and the requirement of an emulsification process. The resultant nut butter and nut butter spreads do not contain any stabilizers, bulking agents, hydrogenated oils or emulsifiers.

Claims Charts and Support in Specification

Below are claims charts identifying the independent claims on appeal, with each element mapped to the specification by paragraph number.

Claim Elements for Independent Claim 1	Identification and Mapping of Claims to Specification by paragraph number and/or drawings
1. A manufacturing process for producing nut butter comprising:	0003, 0019, 0040, 0063, 0065-0066
roasting nuts;	0023, 0027, 0034, 0042
grinding the roasted nuts to a coarse consistency paste having nut particles ranging in size from about 1.5 to about 3.5 mm to produce a nut butter;	0023, 0044, 0046, 0056,
the resulting nut butter not containing hydrogenated oils;	0025, 0035
the resulting nut butter not containing stabilizers;	0025, 0030, 0040, 0059
the resulting nut butter not containing an emulsifier; and	0025, 0040, 0059
the resulting nut butter not containing a bulking agent.	0025, 0040, 0057

Claim Elements for Independent Claim 14	Identification and Mapping of Claims to Specification by paragraph number and/or drawings
14. A nut butter comprising:	0003, 0019, 0040, 0063, 0065-0066
coarse ground roasted nuts having nut particles ranging in size from about 1.5 to about 3.5 mm;	0023, 0044, 0046, 0056
said nut butter not containing hydrogenated oils;	0025, 0035
said nut butter not containing stabilizers;	0025, 0030, 0040, 0059
said nut butter not containing an emulsifier; and	0025, 0040, 0059
said nut butter not containing a bulking agent.	0025, 0040, 0057

Claim Elements for Independent Claim 33	Identification and Mapping of Claims to Specification by paragraph number and/or drawings
33. A manufacturing process for producing nut butter spread comprising:	0003, 0019, 0040, 0063, 0065-0066
roasting nuts;	0023, 0027, 0034, 0042
grinding the roasted nuts to a coarse consistency paste having nut particles ranging in size from about 1.5 to about 3.5 mm to produce a nut butter;	0023, 0044, 0046, 0056,
adding a spread ingredient to produce a nut butter spread;	0063, 0064, 0065, 0066
the resulting nut butter not containing hydrogenated oils;	0025, 0035
the resulting nut butter not containing stabilizers;	0025, 0030, 0040, 0059
the resulting nut butter not containing an emulsifier; and	0025, 0040, 0059
the resulting nut butter not containing a bulking agent.	0025, 0040, 0057

Claim Elements for Independent Claim 42	Identification and Mapping of Claims to Specification by paragraph number and/or drawings
42. A nut butter spread comprising:	0003, 0019, 0040, 0063, 0065-0066
coarse ground roasted nuts having nut particles ranging in size from about 1.5 to about 3.5 mm and a spread ingredient;	0023, 0044, 0046, 0052, 0056
said nut butter not containing hydrogenated oils;	0025, 0035
said nut butter not containing stabilizers;	0025, 0030, 0040, 0059
said nut butter not containing an emulsifier; and	0025, 0040, 0059
said nut butter not containing a bulking agent.	0025, 0040, 0057

(6) Grounds of Rejection to be Reviewed on Appeal

Claims 1, 6-8, 11-15, 18, 21, 22, 25, 29-33, 35-43, and 45-52 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Edson (306,727) in view of the prior art (specification page 7, lines 15-22) and Cammarn et al. (5,417,999) and Avera (3,615,590) and Stockton (1,395,934) and further in view of Rombauer (page 564).

Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the above references as applied to the above claims, and further in view of Bolton (1,687,154).

(7) Argument

Claims 1, 5-8, 11-15, 18, 21, 22, 25, 29-33, 35-43, and 45-52 are believed to be patentable.

- (A) Rejection of the claims under 35 U.S.C. § 103(a) as being unpatentable over Edson (306,727) in view of the prior art (specification page 7, lines 15-22) and Cammarn et al. (5,417,999) and Avera (3,615,590) and Stockton (1,395,934) and further in view of Rombauer (page 564).

In rejecting Applicant's claims, the Examiner relies on the combination of not one, two, three, four or even five references, but six different references! In so doing, the Examiner is forced to combine references that teach away not only from each other, but which also teach away from Applicant's claimed invention. Applicant's amended claims recite a process having a coarse consistency paste with nut particles in a size ranging from about 1.5 to about 3.5 mm and not containing hydrogenated oils, not containing an emulsifier, not containing stabilizers and not containing a bulking agent. The prior art does not teach or render obvious this invention.

It is generally understood that three criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references or in the knowledge available to one of ordinary skill in the art, to combine the reference teachings. MPEP § 2143. Second, there must be a reasonable expectation of success. MPEP § 2143. Third, the combined references must teach or suggest all the claim limitations. MPEP § 2143. Both the suggestion to make the combination and the reasonable expectation of success must be found in the prior art. *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re Sang-Su Lee*, 277 F.3d 1338, 1344-45, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). All the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 984-85, 180 U.S.P.Q. 580 (CCPA 1974); MPEP § 2143. Finally, if an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending on that claim is non-obvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

In *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007), the Supreme Court affirmed *Graham v. John Deere*, 383 U.S. 1 (1966) concerning the factors to be taken into account in the determination of obviousness, i.e., one must:

1. determine the scope and content of the prior art,
2. ascertain the differences between the prior art and the claims in issue,
3. resolve the level of ordinary skill in the pertinent art, and
4. evaluate evidence of secondary consideration.

Applicant's independent claims 1, 14, 33 and 42 recite "...grinding the roasted nuts to a coarse consistency paste having nut particles ranging in size from about 1.5 to about 3.5 mm ... not containing hydrogenated oils, not containing an emulsifier, not containing stabilizers and not containing a bulking agent."

The Examiner argues that "Edson discloses Applicant's process and does not require any of the ingredients or processes, which are not required as in claims 1 and 19." Claim 19 is canceled. Thus, Applicant will assume that Examiner meant claim 14. The Examiner argues that "Edson discloses a process of making a peanut paste by roasting peanuts and grinding the peanuts as in claim 1." We note that Edson, entitled "Manufacture of Peanut Candy", discloses a process of making a peanut candy using one part peanut-paste and seven parts sugar (see Edson lines 44-46). Thus, Edson discloses using flour or fluids which are considered bulking agents (see Edson Col. 1, lines 38-39). Thus, Edson teaches away from Applicant's claims which recite, "a nut butter [or nut butter spread]...not containing a bulking agent." Further, the Examiner admits that Edson fails to teach the step of grinding the nuts to a coarse paste with a particular nut particle size.

The Examiner attempts to combine Applicant's specification, Cammarn et al. and Avera to remedy the deficiencies of Edson. Each of these references is discussed below.

The Examiner states, "Applicant's specification on page 7, lines 15-21 discloses that it is known to make natural peanut butters without adding hydrogenated fats or emulsifiers." However, the Examiner failed to note the most important following sentence in the specification on page 7, lines 19-21, which states when referring to the prior art natural peanut butters, as follows: "The resulting peanut butter . . . exhibits gravitational instability, i.e., oil separation on the top of the product." Applicant's invention does not have such oil separation on top of the product because of its coarse grinding and specific particle size. The Examiner does admit that none of the references disclose a nut butter or nut butter spread made from a coarse consistency paste. These natural peanut butters teach away from Applicant's invention. Applicant's specification then goes on (pages 8-9) to describe how stabilizers, emulsifiers and bulking agents are added to these prior art peanut butters.

Cammarn et al. teach a system which relies on a stabilizer, "the peanut butters or spreads of the present invention preferably comprise from about 1% to about 5% by weight of a stabilizer" (see Cammarn et al., Col. 3, lines 16-18). Cammarn et al. also teaches the use of an emulsifier. For instance, Cammarn et al. state, "the peanut butters of the present invention can contain an emulsifier" (see Cammarn et al., Col. 3, lines 34-36). Because Applicant's amended independent claims recite "the process not containing stabilizers" and "the process not containing emulsifiers", Cammarn et al. teach away from Applicant's claimed invention.

Avera teaches the use of stabilizers. For example, "it is desirable to add to the slurry, prior to roasting, a material that functions as a stabilizer" (see Avera Col. 1, lines 69-71). Avera also teaches the use of hydrogenated oils. Avera states, "[a]ny compatible high melting fat component may be used as the stabilizer...a partially hydrogenated fat, a completely hydrogenated fat, mono (and di-) glyceride esters of the saturated fatty acids, or mixtures of these firming-up agent" (see Col. 6, lines 12-18). Therefore, Avera clearly teaches away from Applicant's recited claims.

Avera further teaches away from Applicant's claimed invention of using coarse ground roasted nuts by relying on the use of blanched nuts (see Avera Abstract). The additional step of blanching nuts not only significantly increases the cost and complexity of the overall process, but can also break apart some nuts and then results in a portion of the raw materials being discarded, and thus wasted. Because Applicant's invention teaches away from the increased costs, complexity, and wastefulness associated with blanching the nuts, and because it is believed that Applicant's use of roasted nuts helps reduce residual natural oils released from grinding the nuts, Applicant's claims are directed to the use of roasted nuts. Avera thus teaches away from Applicant's claimed invention, which recites "introducing whole, unblanched nuts into a mill".

Further, Avera adds chunks of peanuts to a slurry for crunchy peanut butter. This teaches away from Applicant's nut particle size since Avera first grinds the nut butter to a fluid slurry (see Avera, Col. 1, line 13 and Col. 2, lines 65-67) and then later adds chunks to make the nut butter crunchy (see Avera, Col. 6, lines 45-50). Applicant simplifies the process by grinding to a coarse consistency and thus does not require adding nut chunks after the grinding step.

The Examiner next offers Stockton to attempt to remedy the deficiencies of the combination of Edson, Cammarn et al. and Avera. The Examiner specifically states, "Stockton discloses that the degree of oil separation can be prevented partially by coarse grinding, that the finer the grinding the more pronounced the tendency to gravitational separation (page 1, lines 89-103)". However, what Stockton actually discloses at the portion cited is: "[t]his difficulty of oil separation being foreseen may in only a very partial degree be prevented by coarse grinding; for the finer the grinding of the kernels the more pronounced the tendency to gravitational separation. But coarse ground peanut butter is less desirable. It is mealy and does not spread well, and furthermore it is less readily digested than fine ground butter. Another expedient that has been resorted to, to prevent in some measure this gravitational separation is to diminish the value of the fraction of oil in the mass. . .". Thus, not only does Stockton teach away from coarse grinding to control oil separation, but Stockton also teaches away from Applicant's claimed invention by denouncing coarse grinding and graphically describing the less than desirable results that are associated with Applicant's coarse grind.

Stockton, at columns 5 and 6, goes into great detail about how that invention relies on hydrogenated oils and/or other stabilization oils to prevent separation of the peanut oil from the peanut solids. Accordingly, Stockton relies upon a principal problem which Applicant's invention seeks to address. The use of hydrogenated oils and/or other stabilization oils is thus the antithesis of Applicant's claimed invention. Further, Stockton fails to give any examples of nut particle sizes as recited by Applicant's amended claims.

The Examiner then attempts to combine yet one more reference, Rombauer, stating, "Rombauer discloses a process of making peanut butter by roasting and grinding nuts in amounts over 90% with oil (page 564, under "Peanut Butter") (claims 31, 32). Rombauer is an excerpt from *Joy of Cooking* and fails to teach any of the elements of Applicant's recited claims. In fact, Rombauer's entire disclosure only teaches that federal regulations require commercial peanut butter to contain 90% shelled roasted ground peanuts and that one can make their own peanut butter in an electric blender. Rombauer fails to disclose grinding nuts to a coarse consistency paste, fails to disclose a nut particle size and fails to disclose a nut butter or nut butter spread not containing hydrogenated oils, stabilizers, an emulsifier or a bulking agent as recited in Applicant's claims. This recipe does not contain any ingredients which have been excluded from the claims. Nothing is seen that the particle size of the paste would not have been coarse, since an electric blender was used." Nowhere does Rombauer teach a nut butter without hydrogenated oils, stabilizers, emulsifiers or a bulking agent. Rombauer simply discloses how commercial peanut butters are made without the germ of the nut.

The Examiner then says, "[n]othing has been shown that grinding as in Rombauer would have not produced the claimed particle size. Also, it is seen that it would have been within the skill of the ordinary worker to grind to any particle size, since grinding equipment is well known and coarse particle sizes are known as in crunchy peanut butter. Therefore, it would have been obvious to grind to levels which still kept the oil from exuding since such is the aim of the coarse grinding." However, Rombauer fails to disclose anything regarding grinding. Rombauer's only statement that even remotely relates to grinding is, "[i]f you are smart, you will make your own full-bodied peanut butter in an electric blender." Rombauer fails to disclose grinding to any particle size, much less the particle size range recited in Applicant's claims. Based on the statement in Rombauer, one skilled in the art would not know to grind to the particle size of Applicant's claims. Rombauer also fails to disclose any information regarding a nut butter being ground to a coarse consistency paste. The Examiner states, "[n]othing is seen as in claims 1, 14, 33, 42 that the nuts are not coarse ground as only a blender is used in Rombauer." However, there is no teaching of grinding in Rombauer much less grinding to a coarse consistency or a specific particle size. There is no other disclosure regarding grinding or particle size in Rombauer.

None of the prior art references disclose nut particle size. Further, the references teach away

from Applicant's claims since the products contain at least one hydrogenated oil, emulsifier, stabilizer and/or bulking agent. For example, Edson uses flour or fluids which are considered bulking agents (see Edson Col. 1, lines 38-39). Cammarn et al. use soybean and rapeseed hardstock as stabilizers (see Cammarn et al. Col. 4, line 46). Avera uses lightly hydrogenated or hardened oil as stabilizers (see Avera Col. 2, line 56). Stockton also uses hydrogenated oils as stabilizers (see Stockton Col. 5, line 65 to Col. 6, line 3). All of the prior art references relied on by the Examiner contain ingredients which Applicant's recited claims do not have. In addition, none of the prior art references cited by the Examiner specify or even mention ranges of nut particle size.

Even if particle size were disclosed or inherent in one or more of the prior art references, the particle size range recited by Applicant would not be the particle size of the prior art references. In other words, the prior art references would not utilize the same particle size as Applicant. For instance, Edson teaches peanuts that are "ground into a fluid or semi-fluid state, having a consistency of rather thick or heavy molasses or cream" (see Edson lines 29-32). Thus, a nut particle size in Edson would not be nearly as large as Applicant's 1.5 to 3.5 mm particle size. Further, Avera discloses that a "slurry is passed through a fine mill 12, that grinds the solids to a sufficiently small size to make a smooth product. It is preferably ground so that at least 96 percent will pass through a standard U.S. sieve of 200 mesh size" (see Avera Col. 2, lines 65-68). Applicant's nut particle size range of 1.5 to 3.5 mm could not pass through a sieve of 200 mesh size (0.076 mm). Stockton teaches that "ordinarily, fine grinding is preferred" (see Stockton lines 59-60), thus teaching away from the coarse grinding of Applicant's recited claims. Therefore, all of the prior art references disclose a nut particle size that is much smaller than the nut particle size recited by Applicant.

The Examiner in rejecting claim 5 attempts to combine all the prior art references, and further adds Bolton. Claim 5 recites blending at least one ingredient selected from the group consisting of spices, herbs, dried fruits, extracts of the same, salt and sugar, with the nut paste during grinding. The Examiner states that "Bolton discloses that it is known to add cucumbers to peanut butter (col. 1, lines 12-50). Therefore, it would have been obvious to add known ingredients to the peanut paste in the process of the combined references." However, Applicant is not adding cucumbers to the nut paste. Thus, Bolton fails to disclose any element recited in Applicant's claim 5.

Bolton teaches a food product comprising a nut butter with water and cut up cucumber pickles (Bolton lines 84-86). Bolton also teaches having a food product with a consistency of cheese or heavy jelly, which teaches away from Applicant's claimed nut particle size. Thus, Bolton teaches away from Applicant's recited claims by teaching adding water to a nut butter as well as adding cucumber pickles to the nut butter.

Improper Combination

The prior art references cited by the Examiner are an improper combination. As illustrated above, many of the references teach away from each other. For example, Edson's peanut candy could not be combined with Rombauer's peanut butter that is at least 90% peanuts since Edson's peanut candy is one part peanut-paste and about seven parts sugar (Edson lines 44-46). Bolton could also not be combined with Rombauer since Bolton adds cucumber pickles to a nut butter. Further, Avera uses blanched nuts while Cammarn et al. teaches the opposite, using unblanched white-skinned peanuts. Thus, one skilled in the art would not combine the prior art references since many of them teach away from each other and some even teach opposite elements.

Summary

The references cited by the Examiner do not disclose or render obvious Applicant's claims, and teach away from Applicant's invention. Because the prior art references cited by the Examiner teach away from each other, the Examiner's proposed modifications to them, in an attempt to result in Applicant's claimed invention, thus renders the prior art inventions being modified unsatisfactory for their intended purpose. In *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984), the claimed device was a blood filter assembly for use during medical procedures wherein both the inlet and outlet for the blood were located at the bottom end of the filter assembly, and wherein a gas vent was present at the top of the filter assembly. The prior art reference taught a liquid strainer for removing dirt and water from gasoline and other light oils wherein the inlet and outlet were at the top of the device, and wherein a pet-cock (stopcock) was located at the bottom of the device for periodically removing the collected dirt and water. The reference further taught that the separation is assisted by gravity. The Board concluded the claims were *prima facie* obvious, reasoning that it would have been obvious to turn the reference device upside down. The court reversed, finding that if the prior art device was turned upside down it would be inoperable for its intended purpose because the gasoline to be filtered would be trapped at the top, the water and heavier oils sought to be separated would flow out of the outlet instead of the purified gasoline, and the screen would become clogged.

Because none of the prior art references cited by the Examiner disclose nut particle size ranges as recited by Applicant's claims; and because the individual inventive elements of Applicant's claimed invention are not all disclosed in the numerous prior art references by the Examiner even in a post facto manner; and because the prior art references teach away from Applicant's invention; and because the prior art references teach away from each other; and because one skilled in the art would not attempt to so combine the details of the numerous references in such a novel and non-obvious manner; and because the Examiner's combination of the numerous prior art references renders them unsatisfactory for their intended purpose, the novel combination of the prior art references cited by the Examiner is thus inappropriate in rejecting Applicant's claims.

Therefore, claims 1, 14, 33 and 42 are believed to be patentable. Claims 5-8, 11-16, 18, 21, 22, 25, 29-33, 35-43, and 45-52, which are dependent on claims 1, 14, 33 and 42, are also believed to be patentable.

(8) Claims Appendix (Attached).

Respectfully submitted,

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CLAIMS APPENDIX

Claim 1. A manufacturing process for producing nut butter comprising:

- roasting nuts;
- grinding the roasted nuts to a coarse consistency paste having nut particles ranging in size from about 1.5 to about 3.5 mm to produce a nut butter;
- the resulting nut butter not containing hydrogenated oils;
- the resulting nut butter not containing stabilizers;
- the resulting nut butter not containing an emulsifier; and
- the resulting nut butter not containing a bulking agent.

Claims 2-4. (canceled).

Claim 5. The process of claim 1, further comprising blending at least one ingredient selected from the group consisting of spices, herbs, dried fruits, extracts of same, salt, and sugar, with the nut paste during grinding.

Claim 6. The process of claim 1, wherein, immediately after grinding, the coarse nut paste has a temperature ranging from 145 degrees Fahrenheit to 165 degrees Fahrenheit.

Claim 7. The process of claim 1, further comprising mixing and blending the coarse nut paste into a continuously agitating, mixing tank and adding salt and/or sugar into the tank.

Claim 8. The process of claim 7, further comprising adding at least one ingredient selected from the group consisting of spices, herbs, dried fruits and/or extracts.

Claims 9-10. (canceled).

Claim 11. The process of claim 7, wherein mixing and blending is for 5 to 15 minutes.

Claim 12. The process of claim 11, wherein, immediately after mixing and blending, the nut butter has a temperature ranging from 120 degrees Fahrenheit to 125 degrees Fahrenheit.

Claim 13. The process of claim 12 further comprising the step of pumping the nut butter into a depositing system and depositing the nut butter into one or more containers.

Claim 14. A nut butter comprising:

- coarse ground roasted nuts having nut particles ranging in size from about 1.5 to about 3.5 mm;
- said nut butter not containing hydrogenated oils;
- said nut butter not containing stabilizers;
- said nut butter not containing an emulsifier; and
- said nut butter not containing a bulking agent.

Claim 15. The nut butter of claim 14, wherein said nuts have a USDA color of 4, or slightly above.

Claims 16-17. (canceled).

Claim 18. The nut butter of claim 14, further comprising at least one ingredient selected from the group consisting of spices, herbs, dried fruits and/or extracts of same, salt and/or sugar.

Claims 19-20. (canceled).

Claim 21. The process of claim 1 wherein the nuts comprise peanuts.

Claim 22. The nut butter of claim 14 wherein said nuts comprise peanuts.

Claims 23-24. (canceled)

Claim 25. The nut butter of claim 18 wherein said at least one ingredient comprises 0.75% to 20% of said nut butter.

Claims 26-28. (canceled).

Claim 29. The process of claim 1 wherein the nuts comprise skins.

Claim 30. The nut butter of claim 14 further comprising nut skins.

Claim 31. The process of claim 1 wherein the nut butter comprises 90% to 99.18% nut content.

Claim 32. The nut butter of claim 14 wherein said nut butter comprises 90% to 99.18% nut content.

Claim 33. A manufacturing process for producing a nut butter spread comprising:

- roasting nuts;
- grinding the roasted nuts to a coarse consistency paste having nut particles ranging in size from about 1.5 to about 3.5 mm to produce a nut butter;
- adding a spread ingredient to produce a nut butter spread;
- the resulting nut butter spread not containing hydrogenated oils;
- the resulting nut butter spread not containing stabilizers;
- the resulting nut butter spread not containing an emulsifier; and
- the resulting nut butter spread not containing a bulking agent.

Claim 34. (canceled).

Claim 35. The process of claim 33 wherein the spread ingredient comprises at least one ingredient selected from the group consisting of spices, herbs, dried fruits, extracts of same, salt and sugar, with the nut paste during grinding.

Claim 36. The process of claim 33 wherein, immediately after grinding, the coarse nut paste has a temperature ranging from 145 degrees Fahrenheit to 165 degrees Fahrenheit.

Claim 37. The process of claim 33 further comprising mixing and blending the coarse nut paste into a continuously agitating, mixing tank and adding salt and/or sugar into the tank.

Claim 38. The process of claim 37 further comprising at least one ingredient selected from the group consisting of spices, herbs, dried fruits and/or extracts.

Claim 39. The process of claim 37 wherein mixing and blending is for 5 to 15 minutes.

Claim 40. The process of claim 39 wherein, immediately after mixing and blending the nut butter spread has a temperature ranging from 120 degrees Fahrenheit to 125 degrees Fahrenheit.

Claim 41. The process of claim 40 further comprising the step of pumping the nut butter spread into a depositing system and depositing the nut butter spread into one or more containers.

Claim 42. A nut butter spread comprising:

coarse ground roasted nuts having nut particles ranging in size from about 1.5 to about 3.5 mm and a spread ingredient;

said nut butter spread not containing hydrogenated oils;

said nut butter spread not containing stabilizers;

said nut butter spread not containing an emulsifier; and

said nut butter spread not containing a bulking agent.

Claim 43. The nut butter spread of claim 42 wherein said nuts have a USDA color of 4, or slightly above.

Claim 44. (canceled).

Claim 45. The nut butter spread of claim 42 further comprising at least one ingredient selected from the group consisting of spices, herbs, dried fruits and/or extracts of same, salt and/or sugar.

Claim 46. The nut butter spread of claim 45 wherein said at least one ingredient comprises 0.75% to 20% of said nut butter spread.

Claim 47. The process of claim 33 wherein said nuts comprise peanuts.

Claim 48. The nut butter spread of claim 42 wherein said nuts comprise peanuts.

Claim 49. The process of claim 33 wherein the nuts comprise skins.

Claim 50. The nut butter spread of claim 42 further comprising nut skins.

Claim 51. The process of claim 33 wherein the nut butter spread comprises 65% to 86.7% nut content.

Claim 52. The nut butter spread of claim 42 wherein said nut butter spread comprises 65% to 86.7% nut content.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.